

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

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HOUSE BILL 89

Short Title: Shoot to Kill.

(Public)

Sponsors: Representatives Mavretic; Arnold, Berry, Bowman, Brawley, J. Brown, Culp, Decker, Edwards, Flaherty, Gardner, Justus, McCombs, Morgan, Nichols, C. Preston, J. Preston, Robinson, Sexton, Thompson, Weatherly, and Wood.

Referred to: Judiciary III.

February 14, 1994

A BILL TO BE ENTITLED

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2 AN ACT TO REQUIRE A LAW ENFORCEMENT OFFICER TO USE DEADLY
3 PHYSICAL FORCE AGAINST CERTAIN ARMED FELONY SUSPECTS WHEN
4 THE SUSPECT HAS A FIREARM IN HAND AND FAILS TO DISARM UPON
5 COMMAND.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 15A-401(d) reads as rewritten:

8 "(d) Use of Force in Arrest. –

9 (1) Subject to the provisions of subdivision ~~(2)~~, (2) of this subsection, a
10 law-enforcement officer is justified in using force upon another person
11 when and to the extent that he reasonably believes it necessary:

12 a. To prevent the escape from custody or to effect an arrest of a
13 person who he reasonably believes has committed a criminal
14 offense, unless he knows that the arrest is unauthorized; or

15 b. To defend himself or a third person from what he reasonably
16 believes to be the use or imminent use of physical force while
17 effecting or attempting to effect an arrest or while preventing or
18 attempting to prevent an escape.

19 (2) A law-enforcement officer is justified in using deadly physical force
20 upon another person for a purpose specified in subdivision (1) of this
21 subsection ~~only~~ when it is or appears to be reasonably necessary
22 thereby:

- 1 a. To defend himself or a third person from what he reasonably
2 believes to be the use or imminent use of deadly physical force;
3 b. To effect an arrest or to prevent the escape from custody of a
4 person who he reasonably believes is attempting to escape by
5 means of a deadly weapon, or who by his conduct or any other
6 means indicates that he presents an imminent threat of death or
7 serious physical injury to others unless apprehended without
8 delay; or
9 c. To prevent the escape of a person from custody imposed upon
10 him as a result of conviction for a felony.
- 11 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this
12 subsection, a law enforcement officer shall use deadly physical force
13 by discharging his or her firearm with aim to kill when:
- 14 a. The officer and at least one other law enforcement officer are in
15 the presence of an armed suspect who has a gun or pistol in
16 hand and who appears to be committing a Class A or B felony;
17 and
- 18 b. The suspect fails to disarm upon the officer's command.
- 19 The use of deadly physical force in compliance with subdivision (3) of this subsection is
20 deemed not to be willful, malicious, or criminally negligent conduct or unreasonable or
21 excessive force. Nothing in ~~this~~—subdivision (1) or (2) of this subsection constitutes
22 justification for willful, malicious or criminally negligent conduct by any person which
23 injures or endangers any person or property, nor shall it be construed to excuse or justify
24 the use of unreasonable or excessive force."
- 25 Sec. 2. This act becomes effective January 1, 1995.